

REMARKS

This application has been reviewed in light of the Office Action mailed on June 25, 2007. Claims 1-28 are in the application; claims 17, 18 and 28 have been withdrawn from consideration by the Examiner as being directed to a non-elected invention. Claims 1-16 and 19-27 are now presented for examination. Claims 1, 2, 4, 9, 12, 19, 22 and 27 have been amended. Claims 1, 9, 17-19, 27 and 28 are independent. Favorable review is respectfully requested.

Claims 1, 2, 4, 9, 12, 19, 22 and 27 have been amended to make editorial corrections. In addition, independent claims 1, 9, 19 and 27 have been amended to recite communication of an image at a frame rate scalable in accordance with a number of dropped frames depending on whether a previous image has been received. This claim limitation is clearly supported in the specification at least at paragraphs 48 and 83.

Claims 1-16 and 19-27 were rejected under 35 U.S.C. § 103(a) as unpatentable over Parker et al.(U.S. Pat. No. 6,677,976) in view of Lowthert (U.S. Pat. No. 5,832,300). The applicants respectfully submit that amended independent claims 1, 9, 19 and 27 are patentable over the cited art, for the following reasons.

Claim 1 is directed to a method in which an image is communicated to a first user from a second user at a frame rate and at an image quality; at least one of the frame rate and the image quality is based upon conditions of a communication path between the first user and the second user. As noted in the Office Action, Parker et al. does not teach or suggest a frame rate or image quality based upon conditions of a communication path between the first user and the second user. The Office Action cites Lowthert as teaching this limitation. Lowthert is understood to disclose a system and method for transferring data in which a minimum signal quality is maintained (col. 3, lines 15-17). Lowthert emphasizes that a minimum quality signal is to be communicated within a fixed time interval; this is done by reserving a set amount of bandwidth (col. 4, lines 13-14, 25-27). Thus Lowthert does not set a frame rate and image quality based on conditions of a communication path, rather the bandwidth of Lowthert is fixed. By way of the reserved

bandwidth, the system of Lowthert attempts to achieve a constant frame rate with at least a minimum image quality (col. 4, lines 28-30).

In contrast to Lowthert, the frame rate of claim 1 is not necessarily constant, but instead is scalable in accordance with a number of dropped frames; the number of dropped frames depends on whether a previous image has been received. Lowthert clearly does not teach or suggest a scalable frame rate, and in particular does not suggest a number of dropped frames that depends on whether a previous image has been received. Claim 1 therefore is not rendered obvious by the Parker et al./Lowthert combination.

A combination of Parker et al. and Lowthert would at best yield a system for transferring images in which a constant frame rate with a minimum image quality is based upon a reserved bandwidth. This combination does not suggest the above-noted limitations of claim 1, and in fact teaches away from a frame rate which is scalable in accordance with a number of dropped frames. Accordingly, claim 1 is not rendered obvious by either of the cited references, or by a combination thereof.

Independent claims 9, 19 and 27 have been similarly amended to recite a frame rate which is scalable in accordance with a number of dropped frames. These claims are believed to be patentable over Parker et al. and Lowthert for the same reasons.

Claim 27 was also rejected under 35 U.S.C. § 102(b) as anticipated by Fukasawa et al. (U.S. Pat. No. 6,377,989). Fukasawa et al. is understood to disclose a system for retrieving and processing images in which a frame rate is corrected in accordance with a measured network delay time (col.4, lines 49-59). However, Fukasawa et al. does not disclose or suggest that the frame rate is scalable in accordance with a number of dropped frames, depending on an indication whether a previous image has been received. Accordingly, claim 27 as amended is not anticipated by Fukasawa et al., nor does Fukasawa et al., alone or in combination with the references of record, render claim 27 or any other pending claim obvious.

The other claims now under consideration in the application are each dependent from one or another of the independent claims discussed above and are believed to be patentable at least for the same reasons. Since each dependent claim is deemed to define

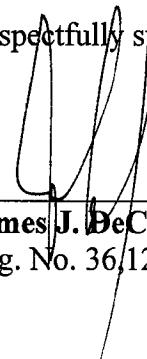
an additional aspect of the invention, however, the consideration of each claim on its merits is respectfully requested.

In view of the foregoing amendments and remarks, the applicants respectfully request favorable consideration and early passage to issue of the present application.

The Commissioner is hereby authorized to charge any fees which may be required for this Amendment to Deposit Account No. 50-1561 of Greenberg Traurig, LLP.

The applicants' attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 32361.

Respectfully submitted,



James J. DeCarlo
Reg. No. 36,120

Date: July 25, 2007

Customer Number 32361
GREENBERG TRAURIG, LLP
MetLife Building
200 Park Avenue
New York, NY 10166
Phone: (212) 801-9200
Fax: (212) 801-6400
E-mail: decarloj@gtlaw.com